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Letter dated 16 November 2004 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism, addressed to the President of the Security Council

I write with reference to my letter of 19 October 2004 (S/2004/835). The Counter-Terrorism Committee has received the attached fourth report from the Sudan submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I should be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Andrey I. Denisov
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

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Annex

Note verbale dated 15 November 2004 from the Permanent Mission of the Sudan to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

The Permanent Mission of the Republic of the Sudan to the United Nations presents its compliments to the Chairman of the Counter-Terrorism Committee and has the honour to enclose herewith the fourth report of the Government of the Sudan submitted pursuant to paragraph 6 of Security Council resolution 1373 (2001) (see enclosure).

Enclosure

[Original: Arabic]

In the name of God, the Merciful, the Compassionate

Fourth report:
Response of the Government of the Sudan to the questions raised by the Counter-Terrorism Committee in its letter No. S/AC.40/Sub.Co.C/OC.684 of 3 August 2004

1. Implementation measures

1.1

Concerning the amendment of the Terrorism (Combating) Act, the Sudan has received from the Vienna-based United Nations Office on Drugs and Crime a study relating to a draft of a law to amend the Sudanese Terrorism (Combating) Act, not the "penal code", as mentioned in the letter.

The committee formed by the Ministry of Justice for the adaptation of Sudanese legislation to the international instruments on counter-terrorism included in its recommendations everything stated in the above-mentioned draft. The Minister of Justice agreed with the committee's recommendations and established another committee for the technical drafting process. The latter committee is expected to complete the draft during November 2004 with a view to its submission to the Council of Ministers for approval and subsequent passage by the legislative branch.

1.2

The provisional decree on combating money-laundering offences, promulgated on 2 August 2003, was submitted to the National Assembly (Parliament) and was passed on 22 December 2003. It has been signed by the President of the Republic and published in the official gazette and became an enforceable act as from that date (attachment 1).

1.3

Article 9 (1) (d) of the 2003 Anti-Money-Laundering Act includes the freezing of funds used or allocated for the commission of terrorist acts among the functions and powers of the Supreme Administrative Committee, as follows: "Seizure or freezing of suspicious accounts and funds".

1.4

The information unit was established by administrative decision No. 26/2002, issued by the Governor of the Bank of the Sudan on 3 August 2002, to fill the existing gap. It was an attempt by the Central Bank to create an agency concerned with combating money-laundering in the absence of any specific legislation in that regard, for it is well known that it takes a considerable time for new legislation to be passed and become law. The unit is headed by a deputy department manager and includes as members three officials, who belong respectively to the Directorates of

Legal Affairs, Foreign Currency and Banking Supervision. It is also reasonably endowed with the necessary means (attachment 2).

It should be pointed out that the Administrative Committee referred to in paragraph 8 of the Anti-Money-Laundering Act of 2003, which is the country's highest national body, has the requisite powers and is provided with human, technical and financial resources.

1.5

No training programmes have yet been carried out locally. However, all quarters concerned are eager to participate actively in training programmes on combating terrorist financing organized in various countries. Special emphasis is placed on training sessions held by international organizations. More then 10 Bank of the Sudan employees have been selected to attend various training courses in a number of countries. The Administrative Committee on combating money-laundering attributes especial importance to the question of training, and efforts will shortly turn from the establishment of training programmes to the task of implementing them.

1.6

The relevant training programmes include the following:

(a) Basic introductory (theoretical) programmes on the nature, modalities and consequences of money-laundering;

(b) Training programmes (practical) and case studies;

(c) Programmes on the use of the most recent means employed in combating terrorism and terrorist financing.

Group training or possibly individual training in the detection of suspicious transactions takes place through follow-up of compliance with the circulars and controls issued to date by the Central Bank (e.g., circular No. 4 of 20 May 2002, on combating money-laundering).

1.7

The licensing of money-changing agencies is subject to the fulfilment of the following conditions:

(a) Registration in the commercial register as public joint-stock companies under the Companies Act of 1925;

(b) Satisfaction of paid-up-capital requirements;

(c) Satisfaction of the requirements of the Khartoum Stock Exchange for a public joint-stock company.

They are thus established under the Companies Act and governed by the laws of the Bank of the Sudan, the Banking Regulation Act, the regulations on transactions in foreign currency and the regulations on money-changing establishments.

1.8

There do not exist, to date, any regulations governing alternative money-transfer services. However, there is a tendency to register any hawalah

establishments that might operate in the country with a view, at this stage, solely to obtaining statistics for determining the volume of funds.

1.9

The unit referred to in administrative order No. 26/2002 is not the unit established pursuant to article 5 (b) of the provisional decree, which became article 8 of the Anti-Money-Laundering Act upon the passage of the Act by Parliament.

- The administrative unit established pursuant to article 8 of the Anti-Money-Laundering Act is the same as the Financial Intelligence Unit (FIU) existing in many countries;
- The unit established pursuant to decision No. 26/2002 is the Anti-Money-Laundering Unit (AMLU), which is subordinate to the Central Bank.

1.10

Approximately eight cases have been reported to date. Upon investigation, however, it was ascertained that none of them involved actual money-laundering operations.

1.11

Regarding the question as to whether there exist specific laws in force in the Sudan, other than the 1957 Extradition Act, that cover other modalities of mutual assistance, we should like to point out that the Ministry of Justice has prepared a draft amendment to the Extradition Act. The amended act covers such other assistance modalities. Furthermore, the Sudan applies the principle of reciprocity in respect of the question of extradition of offenders and terrorists.

1.12

Article 2 of the Sudanese Terrorism (Combating) Act of 2001 defines a non-political crime as follows: "Political offence means assault against heads of states, rulers, the wives, ascendants or descendents thereof, heads of governments, ministers or persons enjoying international protection, including ambassadors and diplomats, and assault against the quarters of diplomatic missions, the seats of private abode or the means of conveyance belonging to them".

Under the concept of violation, any act other than those described in this paragraph is considered as constituting a non-political crime; in other words, non-political crimes are crimes described as being terrorist offences in article 2 of the Terrorism (Combating) Act of 2001: "terrorist offence means any act or attempt committed in execution of a terrorist intention and includes the terrorist acts and offences provided for in such Agreements as the Government of the Republic of the Sudan may have signed, and have been ratified, in accordance with the provisions of the Constitution, save such as have been excepted, or reservation thereon has been made" and also all offences included under the 1991 Penal Code or special penal laws.

Consequently, the criteria applied in determining what constitutes a non-political crime are that the offence should be outside the description of a political offence and that it should come under an act considered criminal by the law.

Regarding the question of whether any of the offences mentioned in the 12 international anti-terrorism instruments to which Sudan has acceded are included within the definition of "political offences" under the country's domestic law, the answer is in the negative, inasmuch as the acts constituting political offences are limited to those specified in the said article, which are indicated exhaustively, not by way of examples. The relevant national regulations are the following:

1. The Penal Code of 1991 (attachment 3);
2. The Terrorism (Combating) Act of 2001;
3. The Weapons and Munitions Act of 1986;
4. The Narcotic Drugs and Psychotropic Substances Act of 1993;
5. The Civil Aviation Act of 1999;
6. The National Security Forces Act of 1999 (attachment 4);
7. The Anti-Money-Laundering Act of 2003 (attachment 5).

1.13

We attach hereto a copy of the Regulation of Asylum Act of 1974 (attachment 6).

1.14

The Government of the Sudan has put in place an effective system for monitoring entry and exit to limit terrorist movements. The system consists of entry/exit points at Khartoum, Port Sudan and Dongola airports, the ports of Port Sudan, Suakin and Wadi Halfa and other border crossing points. Information on travellers is recorded after their entry or exit, since the system used is manual.

1.15

The traveller data recording system has not been put into use at border crossing points, but only at seaports and airports.

1.16

There are no laws or regulations in force in the Sudan that require common carriers to meet the cost of returning travellers; through the international aviation organization law, however, that measure came into force.

1.17

(a) Owing to weak finances, the Government of the Sudan has not been able to issue the new passports. They are expected to be issued in 2005, once the requisite financial appropriation has been made;

(b) The system used to issue the passport is computerized. The data stored on the computer are personal data on the bearer of the passport and the competent authority is the General Directorate of Passports, Migration and Nationality of the Ministry of the Interior.

1.18

The Sudan does not permit entry into or exit from its territory, whether by its own nationals or by nationals of other States, without a valid passport bearing an

entry or exit visa. Failure to comply with this principle constitutes infiltration under article 32 (a) of the Passport Act.

1.19

Sudanese law prohibits the possession of firearms except upon the satisfaction of the conditions and controls pertaining to such possession, which are as follows:

(a) The applicant for a licence must be in possession of a valid authorization issued by the competent licensing authority stating the manner of possession (purchase, financing, importation);

(b) The data on the authorization must match the bearer's personal data;

(c) The licence application form must be filled in.

The number of weapons for which the licence may be granted is two, according to the class specified in the list, and, exceptionally, as many as four.

The licensing system allows the transfer of licences to others, subject to the following conditions:

1. The licensee must submit a written application explaining the reasons for the transfer, accompanied by the licence and residence certificate;

2. The state that originally issued the licence is contacted to report on its contents and forward the related file;

3. The data recorded on the licence is matched to that obtained from the state of origin;

4. A review is made of any renewals of the licence;

5. The renewal or approval form is prepared by the officer-in-charge;

6. If, on the completion of the steps in the preceding paragraphs, no official data are available, the licensee is requested to substantiate that the possession is valid.

1.20

Sudan's response to the questionnaire sent out by the African Union on measures taken by member States to combat terrorism was sent to the African Union's Second High-Level Intergovernmental Meeting on the Prevention and Combating of Terrorism in Africa (attachment 7).

2.2

Regarding the need to pass legislation for the implementation of the 12 international instruments on the suppression of terrorism, as mentioned under 1.1 above, the proposed bill already covers all the provisions contained in the said instruments. Consequently the full implementation of those international conventions presents no difficulty.